

# At the Margin of Society

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This was a long summer break, longer than usual. This has only partly to do with my need for recreation. As announced in the last editorial before the break, we have taken on a number of projects over the summer, including a complete overhaul of the website. We had noticed that the Verfassungsblog site had on occasions become a bit of a mess in the last few months. The new website is almost finished and will go online in a few days. (Actually it should start with today's resumption of the editorial, but, you know...)

## Eso moms and imperial flags

Last weekend I wasn't in Berlin, because my "*Volkskanzler*" text was performed in Hamburg at the [Lichthof-Theater](#) (by the way: this week you can see it in [Berlin on Saturday and Sunday](#)!) Had I been there, I might have watched the Corona demo in Berlin up close instead of relying on the media echo. Which was enormous: German media went to great lengths to understand what happened in front of the *Reichstag* building in Berlin and on its steps, and what to make of the fact that those flag-wielding *Reichsbürger* protesters even made it up there, right to the doors of Parliament, before the police pepper-sprayed them off again. What were those flakey eso moms thinking as they were protesting side by side with hard-boiled right-wing extremists? What did those black-white-red flags mean? What was going on there, and how dangerous was it or could it become?

Next Monday, I will turn 50. With that age comes the temptation to adopt the insufferable habits of older men who have seen it all and find the present nothing like the olden days. I am old enough to remember the demonstrations for peace and against nuclear power plants. I remember Helmut Kohl and Franz-Josef Strauß. I remember strong social norms on how to part your hair and how to greet whom in proper way. I remember the word "*Sympathisant*". I remember the word "*linker Spinner*". I remember the humiliations that were continuously inflicted on women, homosexuals, foreigners and people with disabilities, as if this was the most normal thing in the world (which it was, in a way). I remember the *Merkhefte* of the *Zweitausendeins* publishing house. I remember the word "*Subkultur*". I remember the strong attraction and the no less strong repulsion that all this had on me.

I remember the jokes that I and most of those around me made about these people, about all those who *fought* for or against something, against their own marginalization for the most part or even just for their dignity. It was so easy to make fun of these people. But at some point it became uncool. It became lame, it became dated. The sense of humour had changed. The marginalized had for the most part been overwhelmingly successful in their fight against being marginalized. I and many non-marginalized folks eventually stopped making those jokes. Some, because they were ashamed. Others, because they were afraid.

Which brings us to the Corona demo and the many incompatible currents it apparently consisted of. I recently got hold of a *Kopp-Verlag* catalog. That is a book publishing house with an affiliated mail-order business – obscure to most of our readers, I suppose – that caters to a considerable part of the spectrum that gathered before the *Reichstag* building last weekend: conspiracy theories, survival guides, esoteric mysticism, far right intellectualism, breathless revelations about financial markets and who was actually to blame for World War II, all the way to superfood and essential oils for the fragrance lamp. The *Zweitausendeins Merkheft* of our days, if you will: a refuge and supplier for all those who consider themselves marginalized.

Some of them are the same people with the same views as they were back then: anti-vaxxers and UFO believers, then as now habitually unsuccessful in making space for themselves in society, as far as they are serious about it at all (one can also make oneself quite comfortable in the margins). Some, however, are completely different people: they are the “completely normal” Helmut Kohl and Franz-Josef Strauss voters of old. These are the very people who did most of the marginalizing back then. These are the people who still would make those same jokes, if only the erstwhile marginalized, long since arrived at the very “center of society,” would let them.

## Not so symmetrical at all

It appears as if a role reversal has taken place in the last 20 years: The formerly marginalized have swapped places with their marginalizers. The heirs of Stefan Raab and Harald Schmidt can no longer count on broad social applause for their mockery but find themselves in the eye of a shit storm instead. With no idea what hit them. Or rather, they do know but use it to raise their profile, much as Hanns Dieter Hüsch and Dieter Hildebrandt did in their days. And their audience gratefully seizes the opportunity to occupy the underground positions cleared by the former marginalized, above all the protest form of the marginalized par excellence: they take to the streets.

This strategy becomes particularly attractive because it suggests a kind of symmetry: Look here, back then it was you, today it is us, it's all the same thing anyway. But the suggestion goes even further: you were spectacularly successful with your protest against us. Now look how we do the same with you. That, I suppose, is one of the decisive reasons why this “*rechte Spinner*” protest makes such an impression on those against whom it is directed: it is as if one were dealing with a nasty double, a revenant of their own demo and protest past, returned to rob them of their night's sleep.

In daylight, however, things usually look different. The supposed symmetry is no more than a suggestion, and as such already part of the far-right narrative: it implies that it is and has always been only about who hits whom on the head. And not for what reasons. They would like that, wouldn't they? As if there were no criteria to evaluate whether someone is hit on the head rightly or wrongly. The formerly marginalized were successful in their struggle for a reason. They were because their harassment and abuse and silencing and being made invisible was *unjust*, and the

marginalizers themselves at some point stopped believing their own reasons for the opposite.

The suggestion of the alleged role reversal is fatal for another reason: it obscures the actual marginalizations which of course still take place every day here and now under the comparatively idyllic left-green conditions of nowadays. Who knows how many relatives of people who lost their lives to the defense against the pandemic were among the protesters. They have a right to protest. Even before the German *Bundestag*. Even if at the moment nobody wants to hear what they say. Especially for that reason.

## The summer on Verfassungsblog

... was too long to recapitulate all of it now. Therefore just a personal, admittedly eclectic selection of highlights from the last five weeks:

The **Cum/Ex scandal** is like few others suited to undermine public trust in justice and functioning institutions in the German constitutional state. [KILIAN WEGNER](#) has revealed that the legislator, well hidden in the midst of the corona measures, has ensured that the perpetrators can largely keep their booty.

[ESRA DEMIR GÜRSEL and BASAK CALI](#) take a close look at the verdict of the Turkish Constitutional Court on the criminal prosecution of the signatories of the **Academics-for-Peace** Appeal and show why the persecution of those affected is far from over.

Shortly before the elections in **Belarus**, [MAKSIM KARLIUK and YULIYA MIADZVETSKAYA](#) shed light on what is at stake and the role of the law and the constitution in the matter.

Before the **US election**, President Trump does not even seem to shy away from damaging the postal service if this could possibly benefit his election chances. [KIM SCHEPPELE](#) connects the dots. [DAN WALTERS](#) analyzes the weakness of the procedural protection that the U.S. Supreme Court under Chief Justice Roberts provides against government abuse.

[KIRILL KOROTEEV](#) uses the example of the Russian government's **money laundering policy** to show that international law can sometimes be a useful tool for authoritarian rulers to harass their opponents.

[MATTHIAS GOLDMANN](#) scrutinizes the German policy in dealing with compensation claims by the descendants of victims of the **Herero and Nama** genocide in today's Namibia.

[ANNA KATHARINA MANGOLD](#) and [JOHANNA WOLFF](#) get into a controversy about the compulsory wearing of **masks at school**.

[CAROLIN KEMPER](#) examines the legal problems that arise when **human nerve cells** are successfully connected to computers.

[DIMITRY KOCHENOV](#) and [GRAHAM BUTLER](#) denounce the breach of law that the EU member states have, in their view, committed with the recent election of an **advocate general at the ECJ**, although this position is still filled by Eleanor Sharpston and has by no means been vacated by Brexit. The comments are no less passionate in expressing the opposite view.

This is only a small selection from a large number of articles that I could have listed here with the same right. I would also like to point out our current [online symposium](#) on what comes **after neoliberalism** – a question to which a volume edited by [POUL KJAER](#) is dedicated and which is intensively discussed with contributions by [FLORIAN HOFFMANN](#), [MARTIJN HESSELINK](#), [SIMON DEAKIN](#), [FERNANDA NICOLA](#), [SABINE FRERICHES](#), [JOANA MENDES](#), [CESARE PINELLI](#), [MATTHIAS GOLDMANN](#) and [JAN KOMÁREK](#)

So much for now. All the best to you, and if you grant me a birthday wish, it would be a contribution to the upkeep of the Verfassungsblog project, preferably in the form of a [Steady](#) support (or else: paypal@verfassungsblog.de, IBAN DE41 1001 0010 0923 7441 03). Thanks a lot!

Max Steinbeis

